

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 05-MC-9040-SW-RED
)	
ROBERT J. RIMA,)	
)	
Defendant.)	

ORDER

Pending before the Court is the Petition to Enforce IRS Summons (Doc. 1).

On January 11, 2006, United States Magistrate Judge James C. England held a show cause hearing on the Petition to Enforce IRS Summons. This show cause hearing was then recessed to allow a possible resolution of the case between the parties. On June 2, 2006, the show cause hearing was resumed. On July 7, 2006, Judge England entered his Report and Recommendation (Doc. 28) on the Petition to Enforce IRS Summons (Doc. 1), recommending that the Petition be granted. On July 21, 2006, Defendant filed his Objections to the Report and Recommendation (Doc. 30).

It is clear that the elements of the prima facie case that the government must present in seeking enforcement of a Revenue Service Summons are as follows: (1) that the investigation will be conducted pursuant to a legitimate purpose; (2) that the inquiry may be relevant to the purpose; (3) that the information sought is not already within the Commissioner's possession, and (4) that the administrative steps required by the Code have been followed. *United States v. Powell*, 379 U.S. 48, 57-58 (1964). Although Defendant has interjected inquiries as to the validity of the assessment or the validity of the documentation regarding the assessment, these matters are not within the scope of the summons enforcement proceeding and will not be considered. *United States v. Mueller*, 930

F.2d 10, 12 (8th Cir. 1991). Defendant did not, when given the opportunity, present evidence regarding the prima facie case.

Upon careful and independent review of the petition, the suggestions filed by the parties in regard to said Motion, transcripts of the hearings conducted before United States Magistrate Judge James C. England, and a review of the applicable law, the Court hereby adopts and incorporates as its own opinion and order, the Report and Recommendation of United States Magistrate Judge James C. England.

Accordingly, it is hereby ordered that Petitioner's Petition to Enforce IRS Summons (Doc. 1) is hereby **GRANTED**.

IT IS SO ORDERED.

DATE: August 14, 2006

/s/ Richard E. Dorr

RICHARD E. DORR, JUDGE
UNITED STATES DISTRICT COURT